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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,532	09/09/2008	Takehiko Kawasaki	03500.018188	1278

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FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10104-3800

EXAMINER

KOLB, NATHANIEL J

ART UNIT	PAPER NUMBER
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2856

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11/10/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,532	Applicant(s) KAWASAKI ET AL.	
	Examiner NATHANIEL KOLB	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/2/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary

1. Claims 1-11 are pending. Claims 1-11 remain rejected, however the grounds of rejection have changed, therefore this is a non-final second action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-10 rejected under 35 U.S.C. 102(a) as being anticipated by NOJIRI et al. (European Publication EP1286156).

1. **Regarding claim 1, 5, and 6:** The adjusting assembly is taught in para. 142 and includes dehumidifying (“adjusting temperature conditions”) and humidifying (“amount of ink to be discharged”) the sheet material. The external force applying means is taught in para. 25. The detecting means is taught in para. 33-34. The identifying means is taught in para. 66-69.
2. **Regarding claims 2-4:** NOJIRI teaches both a heating mechanism in a fixation device (para. 142) and the transfer assembly in a heat transfer printer (para. 149).
3. **Regarding claim 7:** The table is taught in para. 66.
4. **Regarding claim 8:** Detecting moisture content is taught in para. 64 where he teaches incorporating humidity conditions into the information about the sheet material.
5. **Regarding claim 9:** He teaches an impact force (para. 25).

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6. **Regarding claim 10:** Treating the sheet is taught in the adjustment of printing parameters explained in para. 142.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over NOJIRI et al. (European Publication EP1286156).

7. **Regarding claim 11:** Although NOJIRI teaches all of the steps of the method of claim 11 as discussed in the rejection of claim 1 above, NOJIRI does not teach the moisture content adjusting step before the external force applying step. However NOJIRI does teach that the humidity and temperature conditions must be taken into account when determining information about the sheet material (para. 64). It is inherent for the methods of NOJIRI which include impacting the sheet material and measuring some kind of response, that the humidity conditions of the sheet will affect that measurement because the vibrations caused by the impact will travel differently through the sheet depending on how moist it is. Therefore, in both NOJIRI and the present application the moisture content of the sheet material is taken into account and the fact that the present application claims the moisture content adjusting step before applying the force does not change the measurement and does not patentably distinguish the claim 11 over the teaching of NOJIRI.

Response to Arguments/Amendments

8. The applicant has argued that NOJIRI teaches adjusting the moisture content of the sheet after the force is applied and that the present application teaches adjusting the moisture content before the force is applied making it patentably distinct. This argument has been fully considered and is not persuasive. NOJIRI teaches all of the structure contained in claim 1 of the present application and although he does not teach this structure as explicitly adjusting moisture content before applying the force, the device could be used that way if desired. However, for the method of claim 11, since NOJIRI does not teach the steps of the method in the order claimed, NOJIRI cannot be relied upon to make rejection under 35 U.S.C 102. This rejection has accordingly been changed to a rejection under 35 U.S.C. 103. The applicant has asserted in the application that this allows the type of material to more precisely be determined. The examiner does not agree with this assertion because in both cases the moisture conditions of the sheet are determined before the impact is applied because it is known that they will affect the impact measurement. Adding the extra step of adjusting the moisture conditions changes the moisture conditions, but they still need to be determined and factored into the impact measurement, therefore there is no evidence to suggest that this allows for a more precise measurement and is an obvious variation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHANIEL KOLB whose telephone number is (571) 270-7601. The examiner can normally be reached on Mon-Fri 8am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEZRON WILLIAMS can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NATHANIEL KOLB/
Examiner, Art Unit 2856

/Hezron Williams/
Supervisory Patent Examiner, Art
Unit 2856